IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO 474 OF 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

Sardar Co-op Consumers Stores Ltd

VERSUS

Hindustan Petroleum Corp. Ltd.

Appearance:

MR HS MULIYA for the petitioner

MS MA SHAH for the respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision : 16/06/2000

C.A.V. JUDGEMENT

1. Heard the learned counsel for the parties. The petitioner is a Co-operative Society registered under the Co-operative Societies Act. The Society, as per the say of the petitioner, is formed and functioning mainly for the benefit and interests of its members-farmers. The petitioner-society has applied for consumer pump for

catering to the needs of farmers who use diesel fuel for furthering their agricultural activities. The respondent-corporation, under its circular dated 4th January, 1995 addressed to the District Magistrate, Mehsana, informed that it proposes to put up consumer pump facility at Govindpura, Vijapur, the petitioner, as licencee. The request has been made to grant N.O.C. at the earliest.

2. The petitioner applied for the explosive licence and that has been granted by the Dy. Chief Controller of Explosives, West Circle, Bombay under its letter dated 17th March, 1995. The District Magistrate, Mehsana has also granted No Objection Certificate, as required by the Hindustan Petroleum Corp. Ltd., for installation of the consumer pump facility at Govindpura, Vijapur. The petitioner submits that though all necessary permissions are obtained by it and the process, as required by the Corporation is followed, i.e. land has been purchased, N.O.C. is obtained from the concerned authorities, etc., the Corporation is not supplying the diesel to the reasons best known to it. It is the say of the petitioner that for the purpose of starting consumer pump, it has invested a huge amount, but the Corporation has not released the supply of diesel to it so far.

3. In the petition, prayer has been made for a direction to the respondent-corporation to release the supply of diesel to the petitioner.

4. The petition has been contested by the respondent by filing affidavit-in-reply and further affidavit.

5. The learned counsel for the petitioner, relying on two decisions of this court i.e. in the case of Sadguru Agro Consumer Sanstha, M.C.A. No.1035 of 1999 decided on 16th of July, 1999 and that of in the case of Deepak V Shukla decided on 27th of January, 1997, contended that this action of the respondent-corporation wholly is arbitrary, unjustified and unreasonable. The Corporation furnished its justification in the affidavit-reply not to release the supply of diesel to the petitioner. However, the two decisions on which reliance has been placed by the learned counsel for the petitioner, prima facie appears to be in favour of the petitioner. I consider it to be appropriate to give a direction to the Corporation to re-examine the matter in light of these two decisions. If it finds that release of supply of diesel cannot be made in favour of the petitioner, then a reasoned order may be passed and a copy of the same may be sent to the petitioner by the

registered Post A.D.

6. In the result, this Special Civil Application is disposed of in terms that the Corporation to decide this matter within a period of one month from the date of receipt of writ of this order. If the petitioner desires personal hearing, the same may also be afforded to it. The petitioner is at liberty to place, if it so desires, any further material on the record of the Corporation in the matter and it is to be done forthwith so that the Corporation may decide the matter within stipulated period as ordered by the court. Rule stands disposed of accordingly. In the facts of this case, no order as to costs.

(S.K. Keshote, J.)

(kamlesh)